

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
PECOS DIVISION**

ELISE BURNS and ROBERT FRUGE,
Plaintiffs,

VS.

COLE JOHNSON; BIGHORN
CONSTRUCTION & RECLAMATION,
LLC; and LAURO FLORES,
Defendants.

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CIVIL ACTION NO.: 4:17-CV-00016

JURY

JOINT STIPULATION OF DISMISSAL WITH PREJUDICE

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COME NOW, Plaintiffs, ELISE BURNS and ROBERT FRUGE and Defendants, COLE JOHNSON, BIGHORN CONSTRUCTION & RECLAMATION, LLC, and LAURO FLORES and pursuant to Fed. R. Civ. P. 41 file this Joint Stipulation of Dismissal, and would show:

1. This is a personal injury lawsuit wherein Plaintiffs, ELISE BURNS and ROBERT FRUGE allege injuries and damages as a result of an automobile accident on June 24, 2015, in Kermit, Texas.

2. Pursuant to a settlement reached between the parties, Plaintiffs, ELISE BURNS and ROBERT FRUGE no longer wish to prosecute their claims against Defendants, COLE JOHNSON, BIGHORN CONSTRUCTION & RECLAMATION, LLC, and LAURO FLORES.

3. This case is not a class action.

4. A receiver has not been appointed in this case.

5. This case is not governed by any federal statute that requires a court order for dismissal of the case.

6. Plaintiffs have not previously dismissed any federal or state court suit based on or including the same claims as those presented in this case.

7. This dismissal is with prejudice to refilling.

WHEREFORE, Plaintiffs, ELISE BURNS and ROBERT FRUGE and Defendants, COLE JOHNSON, BIGHORN CONSTRUCTION & RECLAMATION, LLC, and LAURO FLORES respectfully request that the Court sign the attached Order of Dismissal with Prejudice, ordering that costs be taxed against the parties incurring same.

Respectfully submitted,

Dated: October 3, 2017

By: /s/ Andrew Rubenstein
Andrew Rubenstein
Texas Bar No. 17360375
D. MILLER & ASSOCIATES, PLLC.
2610 W. Sam Houston Pkwy, Suite 200
Houston, TX 77042
Telephone: 903/850-8600
Facsimile: 903/366-3463
Email: andy@dmillerlaw.com

ATTORNEYS FOR PLAINTIFFS

Dated: October 3, 2017

By: /s/ Randy Donato
Randy Donato
Texas State Bar No. 05973300
James T. Sunosky
Texas State Bar No. 24033372
DONATO, MINX, BROWN & POOL, P.C.
3200 Southwest Freeway, Suite 2300
Houston, TX 77027
Telephone: 713/877-1112
Facsimile: 713/877-1138
E-Mail: rdonato@donatominxbrown.com
jsunosky@donatominxbrown.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that, on the 3rd day of October, 2017, a true and correct copy of the above and foregoing has been served by:

☐ certified mail, return receipt requested; ☐ overnight delivery; ☐ hand delivery;
☐ United States first class mail; ☐ facsimile transmission; ☒ electronic
transmission on the following counsel:

<u><i>Counsel for Plaintiffs</i></u> Andrew Rubenstein 2610 W. Sam Houston Pkwy, Ste 200 Houston, Texas 77042 (713) 850-8600 (713) 366-3463 - FAX andy@dmillerlaw.com	<u><i>Of Counsel for Plaintiffs</i></u> Benjamin Kemmey D. Miller & Associates, PLLC 2610 W. Sam Houston Pkwy, Ste 201 Houston, Texas 77042 (713) 850-8600 (713) 366-3463 - FAX ben@dmillerlaw.com
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/s/ Randy Donato

Randy Donato